

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA, *et al.*,

11 Plaintiffs, and

12 PUYALLUP TRIBE OF INDIANS, *et al.*,

13 Plaintiff-Intervenors,

14 v.

15 ELECTRON HYDRO, LLC, and THOM A.  
16 FISCHER,

17 Defendants.

18 CASE NO. C20-1746-JCC

19 MINUTE ORDER

20 RELATES TO:  
C21-5171-JCC

21 The following Minute Order is made by direction of the Court, the Honorable John C.  
22 Coughenour, United States District Judge:

23 This matter comes before the Court on the Government's reply brief (Dkt. No. 95) and  
24 Community for a Healthy Bay and Puget Soundkeeper Alliance's (the "Organizations") motion to  
25 strike (Dkt. No. 96). In its reply brief, the Government offers to file under seal documents  
supporting its contention regarding the state of Defendant Electron Hydro, LLC's finances. (See  
Dkt. No. 95 at 6 n.6.) The Court would find these documents useful. Accordingly, the  
Government is ORDERED to provide them to the Court, along with a supporting declaration, by

1 May 11, 2022. These items may be filed ***under seal***.

2 Separately, the Organizations move to strike from the Government's reply brief its  
3 suggested compromise of a six-month stay of entry of the proposed consent decree. (Dkt. No. 96  
4 at 2; *see* Dkt. No. 95 at 7.) Although the Court does not view the Government's request to be a  
5 wholly new argument, *see Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007) (wholly new  
6 arguments may not be made on reply), because the Organizations did not brief the issue, they  
7 may file a surreply, limited to four pages, directed solely at the Government's arguments  
8 regarding the duration of a stay and the state of Electron Hydro, LLC's financial condition. The  
9 Organization's surreply is due May 13, 2022.

10 The Clerk is DIRECTED to renote the Organizations' motion for entry of a consent  
11 decree (Dkt. No. 75) and the Government's motion to stay (Dkt. No. 85) to May 13, 2022.  
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13 DATED this 2nd day of May 2022.

14 Ravi Subramanian  
Clerk of Court

15 s/Sandra Rawski  
Deputy Clerk